

WASHINGTON STATE DEPARTMENT OF HEALTH OCCUPATIONAL THERAPY PRACTICE BOARD MEETING/RULES WORKGROUP SESSION MINUTES

August 6, 2004
9:00 AM

Department of Health, CenterPoint, 20435 72nd Avenue S, Suite 200, Kent, WA.

On August 6, 2004, the Occupational Therapy Practice Board met at the Department of Health, CenterPoint, 20435 72nd Avenue S, Suite 200, Kent, Washington. In accordance with the Open Public Meetings Act, notices were sent to individuals requesting notification of meetings.

MEMBERS PRESENT

WENDY HOLMES, OT, CHAIR
CATHERINE WHITING, OT, VICE CHAIR
D. JILL PETRIE, COTA
MARK LEHNER, OT
JOHN BORAH, PUBLIC MEMBER

STAFF PRESENT

KRIS WAIDELY, PROGRAM MANAGER
JENNIFER BRESSI, PROGRAM MANAGER
LISA PANNONE, STAFF ATTORNEY
KRISTEN MITCHELL, AAG ADVISOR

GUESTS PRESENT

BONNIE KING, HEALTH PROFESSIONS QUALITY ASSURANCE DIRECTOR
DAVE MAGBY, HEALTH PROFESSIONS QUALITY ASSURANCE CHIEF INVESTIGATOR
JEAN SULLIVAN, WA. HEALTH PROFESSIONAL SERVICES EXECUTIVE DIRECTOR
CAROL KUS, WOTA LIASON

Friday August 6, 2004 – 9:05 AM – OPEN SESSION

1. CALL TO ORDER

- 1.1 Approval of Agenda
Agenda approved with the addition of introductions as item number 2.
- 1.2 Approval of Meeting Minutes from May 17, 2004.
Minutes approved as presented.

2. INTRODUCTIONS - Wendy Holmes introduced the new public member, John Borah. Mr. Borah provided a brief work history on himself. Meeting attendees introduced themselves and provided a brief history of work experience.

3. BONNIE KING, HPQA DIRECTOR – Bonnie King presented an overview of HPQA's disciplinary process improvements. Ms. King introduced herself and described her position with HPQA. Ms. King provided a presentation of HPQA concerns in 3 main areas of accountability, timeliness and sanctions for 2003 to 2005 biennium. There is legislation that requires timelines; HPQA has timelines

but are the lengths appropriate? Can cases be handled quicker? Is HPQA doing enough with sanctions?

Three strategies are: disciplinary process review, HPQA internal restructure, and 2005-2007 budgetary enhancements. Management is taking a look at the overall disciplinary process. Recognizing high priority cases and processing quickly; processing non-compliant practitioners quickly. Future focus will be to discover various ways of doing business for timeliness. There are representatives of all areas (management, legal staff, investigation staff, Board and commission staff) involved in the process.

Restructure, consolidate/centralize investigation units, legal units. Workgroups have been reviewing the work processes of professions. The new organization chart indicates proposed professions to be moved to new Sections. Management tried to align professions that have business in common. Management also tried to distribute Boards and Commissions across HPQA so support is distributed evenly. New professions that possibly could come to HPQA in the future, tattoo artists and body piercing for example.

HPQA Management will ask legislature to allow us to use money already there. HPQA receives more revenue than legislature allots for use. More allotment would allow more staff to support the strategies of HPQA. Current focus will be on restructure. No RIF's are intended and more staff is needed. Focus will be on looking at process efficiencies.

Key Message is to enhance accountability, timeliness, and improve sanction consistency. Bonnie King indicated her commitment is to keep Boards and Commissions informed about HPQA's restructure. She is making a personal effort to attend more Board and Commissions meetings.

Board Commission Committee Conference is scheduled for 10-29-2004. A formal invitation and registration will go out soon.

4. **THE ROLE OF THE INVESTIGATION SERVICE UNIT** – Dave Magby, Chief Investigator, provided an overview of the role and activities of the Department of Health Investigation Service Unit (ISU). ISU services 51 boards and commissions, there are 15 investigators and 3 support staff located in Olympia, Kent, and Spokane. ISU staff have an average 18 years expertise in investigations. ISU participates in the case management team. ISU is responsible for interviewing complainant, respondent and reporting back to the Board; investigators may work directly with an RBM. They may need assistance from RBM due to expertise. If you have questions on a report, call the investigator. Timelines allows 170 days to complete an investigation. The current average investigation is 92 days. The Uniform Disciplinary Act outlines 25 acts of unprofessional conduct. ISU investigates all 25. The 3 major ones are fraud, sexual misconduct, and drug diversion. Currently there is an average of 25 to 30 unlicensed cases per month. In previous years there was 5 to 8 unlicensed cases per month.

Whistle blower release: one law says let the respondent know, and another indicates not to tell respondent what it is about.

ISU provides the Board with objective information for the Board to make an informed decision. ISU may share information with others for investigations (law enforcement, other state agencies), each do have to perform their own investigation though. Difference in level of evidence (preponderance of evidence, clear and convincing, beyond reasonable doubt).

Sometimes there is a misconception of ISU being an advocate of the complainant. This is not correct and ISU's job is to provide an objective report of evidence.

5. THE ROLE OF THE WASHINGTON HEALTH PROFESSIONAL SERVICES –
10:00 a.m. - Tabled agenda item until she arrives - Jean Sullivan arrived at 10:45 a.m. and began her presentation.

WHPS worked with NBCOT as drug abuse prevention is a national issue for OT and OTAs.

Jean Sullivan provided an overview of the role and activities of the Washington Health Professional Services (WHPS). Washington Health Professional Services is the department's program for chemically dependent practitioners. The program was created in 1988. The programs purpose is to serve as an alternative to license discipline. There are three different ways a practitioner can enter the Washington Health Professional Services program: they can call the program directly and ask for help, employers can refer employees that have behaviors in the workplace that need help, the Board can issue a formal order requiring the practitioner to enter the program in lieu of losing their license to practice. WHPS is involved in the placement of the program the individual chooses. There is a practice restriction that the individual can only work for one employer and no more than 40 hours a week. Individuals are kept in the program for five years and the last two years are a transitional program. If an individual is non-compliant with the program, the Board is notified for further action.

WHPS first meets with the practitioner, assesses treatment, then enters into a contract with them. Some requirements of contracts may consist of reports from prescribers indicating what they prescribed to the practitioner and why. Three types of recovery may consist of the 12 steps method, faith based, or non faith based. Therapy may be required due to 72% of participants having history of physical or sexual abuse. If relapse occurs, WHPS meets with practitioner and reassesses treatment; the 5 year contract starts over and possibly the practitioner will be referred back to the Board for decision to discipline, etc.

WHPS provides statistics to the OT program of the number of practitioner's in the program. If the practitioner enters the program on their own, their identity is confidential. But if the practitioner relapses, WHPS will report to the Board.

Currently there are 350 active participants of all types of practitioners. The average financial cost starts at \$150.00 per month for first three years. After reassessment, costs are reduced.

Jennifer Bressi will provide monthly WHPS report to Board in the manager's report, possibly on quarterly basis. Jean Sullivan will provide booklets to the Board.

6. **HPQA SECTION ALIGNMENT CHANGES** - Mark Lehner reported on the June 2, 2004 Health Professions Quality Assurance meeting he attended at the Department of Health. State Employees Union is involved with all reorganizations of staff; no RIFS are intended in the reorganization. Mark noticed body language of individuals and reminded the Board that it could be stressful on the HPQA employees. The Board will not be impacted but changes may make things better. Organization changes have been compared to be similar with private practice. There were previously 21 DOH locations and in the near future there will be 3 buildings located together. This provides better efficiency and communications between work units. Not everything has been finalized and workgroups have been formed. HPQA management wanted to stress that one profession is not any less important than other professions.
7. **WOTA ANNUAL CONFERENCE** – Jennifer Bressi provided copies of possible handouts to be provided at the October Board meeting with the WOTA Annual Conference. Jennifer provided the Board with the schedule of Board attendance for the WOTA Annual Conference beginning on Friday October 1, 2004.

Changes were suggested for some of the handouts. The handout for the Board's upcoming expiring positions will be changed to include the 3 appointments expiring on December 31, 2005. An additional handout specifically regarding continuing education and audits will be created. The Board discussed the best time and place to provide handouts so more practitioners will receive them. The Board discussed possibly providing handouts at the luncheon since there is usually an average of 110 individuals that attend. Board decided to check with WOTA to see if we could include handouts in their registration packet for the conference. The Board agreed that this would ensure every conference attendee would receive the handouts. Jennifer Bressi will contact Karla Gray regarding the handouts.

Jill Petrie, Catherine Whiting, Jennifer Bressi, and Kris Waidely will be attending the WOTA's business meeting on October 1, 2004. Catherine Whiting will present what the Board has been doing over the last year and invite participants to the rules workshop and Jill Petrie will present information on the Board positions expiring on December 31, 2005 at the October 2, 2004 luncheon. Full recruitment is required and the Governor appoints the new Board member.

Jennifer Bressi will create a Power Point slide presentation of the Board rules and continuing education certificates for the rules workshop.

The Board would like to have a conference call for closed session items prior to the October 1, 2004 meeting to reduce the amount of business to be completed at the meeting. The Board would like to have a short training session on the evening of September 30, 2004 to train other board members to review foreign educated applicants.

8. RCW 18.59-070 WAIVER OF EXAMINATION AND LICENSING REQUIREMENTS APPLICANTS LICENSED IN OTHER STATES OR TERRITORIES – Catherine Whiting reported information she gathered from NBCOT and AOTA.

Catherine provided a list of states and CE requirements that she was able to access from the AOTA website. Providing complete endorsement or reciprocity would increase accessibility for licensure. When looking at neighboring states continuing education, Idaho does not require CE but every state does require NBCOT examination. The Board would like to table this topic and keep information in mind for future rule writing.

9. LICENSURE STANDARDS RELATED TO TELEHEALTH – Wendy provided a quick overview of what telehealth is. Wendy researched that AOTA is in development of a position statement. AOTA and other states are reporting more questions about this issue. Jennifer Bressi provided results of her research regarding 4 other states positions. Alaska, Wyoming, and Arkansas have no position or information regarding telehealth. Oklahoma Medical Board has issued a policy statement on telehealth. The policy statement does not mention occupational therapists.

The Board discuss that this issue could be broader than scope of practice, more complex with supervision requirements. Do we write WACs? Board needs to consider barriers to health care as well as protect public safety. The Board would like to table this issue until the Board can review what position the Board of Physical Therapy will take. There are no other states, no national organization positions or direction. There is not enough information out there that it is good or bad.

Jennifer Bressi will send an e-mail to Nancy Hughes indicating that the “Board will not take a position on the issue at this time.”

10. POLICIES – The Board reviewed all current policies and made the following decisions.

Policy 1.1 – Approved as presented
Policy 1.2 - Rescinded
Policy 1.3 – Approved as presented
Policy 1.4 – Approved as presented
Policy 2.1 - Approved as presented

Policy 2.2 - Wendy and Jennifer will create a new draft
Policy 2.3 – Hold until WAC changes adopted
Policy 2.4 - Approved as presented
Policy 3.1 - Rescinded
Policy 3.2 – Hold until WAC changes adopted
Policy 3.5 - Approved as presented
Policy 3.6 - Approved as presented
Policy 3.7 - Asked AAG to compare 3.6 and 3.7 and make a recommendation to the Board
Policy 3.8 - Approved as presented

11. PROGRAM REPORT – Tabled until next meeting due to time restrictions. The following items were provided to the Board for their information.

- Copy of memo from Bonnie King to HPQA Employees
- Internet page of DOH survey regarding credit/debit card transactions
- Executive Director job announcement
- Continuing Education statistics
- NBCOT memo
- AOTA newly adopted documents

12. CORRESPONDENCE – Jennifer Bressi provided copies of correspondence for the Boards information.

CLOSED SESSION 12:40 PM

13. CONTINUING EDUCATION AUDITS

Board members reviewed CE audits for compliance.

One CE Extension request was denied and the Board requested a letter to be sent to the practitioner.

14. DISCIPLINARY CASE REVIEW

Case 2004-06-0001OT - CLOSED (prior to investigation) – No violation
Case 2004-03-0001OT - CLOSED (after investigation) – No Whistleblower Release
Case 2004-05-0003OT - To Legal for Statement of Charges
Case 2004-05-0002OT - CLOSED (prior to investigation) – No violation
Case 2004-02-0001OT - To Legal for Review/Consult with RBM
Case 2004-05-0001OC - CLOSED (prior to investigation) - Otherwise remedied

15. REVIEW OF APPLICATIONS

Applicant A - Approved
Applicant B - Approved

Applicant C - Approved
Applicant D - Approved
Applicant E - Approved
Applicant F - Approved
Re-entry Applicant - Approved

Rules Workshop - Drafting Session 2:35 PM - OPEN SESSION

16. **STATUS UPDATE OF RULES PROCESS** - Jennifer Bressi provided the status of:
WAC 246-847-010 Definitions
WAC 246-847-065 Continuing Competency
WAC 246-847-170 Code of Ethics

The small business economic impact statement and significant analysis along with CR102 forms have been filed with the HPQA Policy office. A meeting is scheduled with DOH reviewing members on September 10, 2004.

Wendy Holmes questioned the language in WAC 246-847-010 Definitions. The Board reviewed the language along with AAG, Kristen Mitchell. Professional Supervision was defined twice in the rule and needed to be corrected. Changes to how professional supervision was defined was made, renumbering and grammar was changed. The second definition listed was deleted.

Due to the amount of changes that occurred, the CR102 package will be pulled from the policy office. New language will be presented at the October 2, 2004 rules workshop for finalization.

WAC 246-847-065 and 246-847-170 were also reviewed for any errors. AAG advised to add "is allowed" under 246-847-065 (12). This change corrected an incomplete sentence.

17. **RULE WRITING**

- a. WAC 246-847-120 – Foreign Trained Applicants

Two drafts were presented with different language. The Board agreed Draft #1 was more appropriate and made changes to the first sentence in the WAC draft.

- b. WAC 246-847-080 Examinations

Language in items 2 through 7 were deleted. Item #1 was changed to read "The examination administered by the National Board for Certification in Occupational Therapy or its successor organization shall be the official examination for licensure as an occupational therapist or as an occupational therapy assistant." Item #8 was renumbered to #2 and testing organization was changed to "National Board for Certification in Occupational Therapy or its successor organization".

c. WAC 246-847-115 Limited Permits

No changes were made at this time. Draft rule language will be looked at again at the October 2, 2004 Rules Workshop.

d. WAC 246-847-190 Aids Education & Training

Current rule language indicates six hours are needed for licensure. WAC 246-12-260 indicates that either four or seven hours of AIDS education is required. OT needs to bring their WAC into compliance with WAC 246-12-260. Four hours was discussed but a member of the public indicated that OT's do come into contact with open sores and seven hours would be more appropriate. There was discussion regarding what type of training and how many hours are classes. The draft rule language was changed to seven hours.

e. WAC 246-847-XXX – Sexual Misconduct

Item #4 was deleted from the draft language. The Board's AAG and Staff Attorney felt the language in #4 was too broad and the language in item #3 covered it.

18. ADJOURNMENT at 4:30 PM

There being no further business before the Board, the meeting was adjourned at 4:30 p.m.

Respectfully submitted:

Approved:

Jennifer Bressi
Program Manager

Wendy Holmes, OT, Chair
Occupational Therapy Practice Board